

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

RICHARD L. MCCAULEY)	
)	
COMPLAINANT)	
)	
VS.)	CASE NO.
)	90-107
KENTUCKY TURNPIKE WATER DISTRICT)	
& GERALD BURKE, PRESIDENT)	
)	
DEFENDANTS)	

O R D E R

On April 30, 1990, Richard L. McCauley filed a complaint against Kentucky Turnpike Water District ("Kentucky Turnpike") and Gerald Burke, chairman of Kentucky Turnpike's board of commissioners, alleging that he was improperly refused water service.

After reviewing the complaint and being otherwise sufficiently advised, the Commission finds that:

1. KRS 278.260 grants the Commission "original jurisdiction over complaints as to rates or service of any utility," but does not confer jurisdiction over complaints against other persons.
2. Mr. Burke is not a utility as defined in KRS 278.010(3).
3. The complaint against Mr. Burke is not against a utility and therefore should be dismissed for lack of jurisdiction.
4. Complainant's allegations against Mr. Burke concern actions performed by him in his capacity as a Kentucky Turnpike

official and not in his individual capacity. Complainant names Mr. Burke in his capacity as a Kentucky Turnpike official and not in his individual capacity.

5. Mr. Burke cannot grant the relief sought in the complaint.

6. Assuming arguendo that the Commission has jurisdiction over complaints against persons who are not utilities, Mr. Burke is not a proper party defendant to this action.

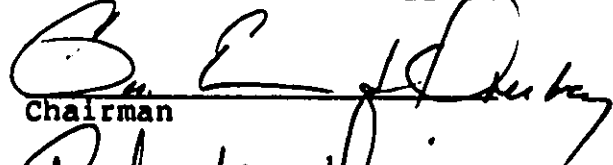
7. The complaint states a prima facie case against Kentucky Turnpike.

IT IS THEREFORE ORDERED that:

1. The complaint against Gerald Burke is dismissed.
2. Pursuant to Commission Regulation 807 KAR 5:001, Section 12, Kentucky Turnpike shall satisfy the matters complained of or file a written answer to the complaint within 10 days of the date of service of this Order.

Done at Frankfort, Kentucky, this 16th day of May, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director